THE HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.3965 of 2001

Date: 01.08.2007

Between:

Sri Syed Sardar Ali, S/o.S.Mahaboob Ali

..... PETITIONER

AND

1. Station House Officer,
   Punjagutta Police Station,
   Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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ORDER:

By means of filing this writ petition under Article 226 of the Constitution of India, the petitioner seeks to issue a Writ of *Mandamus* declaring the First Information Report (F.I.R) in Crime No.749 of 2000 registered for the offence punishable under Section 420 I.P.C on the file of the Station House Officer, Punjagutta Police Station, Hyderabad, as highly *mala fide*, arbitrary and illegal.

The Joint Transport Commissioner & Secretary, Regional Transport Authority, Hyderabad, lodged a complaint with the police stating that M/s.Modern Tourist represented by the petitioner transferred the vehicles owned by it in the name of M/s.Dr.Reddy's Laboratories Limited, M/s.Vorin Laboratories Limited, M/s.Medicorp Technologies India Limited and M/s.Neuland Laboratories Limited. The *modus operandi* is to avail concession on the tax payment
@ Rs.126/- per seat per quarter to transport the employees of the above companies from their residences to the factory and back. The contractor, who operates his vehicle on his name, has to pay quarterly tax ranging from Rs.1150/- to Rs.2500/- per seat per quarter depending upon the area of operation covered by the revenue districts. By transferring the vehicles in the name of the above companies, they have cheated the Government of its legitimate revenues, which was noticed during the vehicle checking against the vehicles, namely, AHT 8833, AP12T 204, ABT 6990, AP11VI, AP11 V3377 and AP2T 3934, which were seized under the Andhra Pradesh Motor Vehicles Act and were kept at RTA, Khairatabad. Therefore, necessary crime may be registered against the said companies for cheating the Government of its revenues. Based on

the said complaint, the police registered a case in Crime No.749 of 2000, which is now sought to be quashed.

It is well settled that if the complaint itself discloses an offence, the High Court should not embark upon the enquiry as to the reliability or genuineness of the allegations made in the complaint.

In **State of Haryana v. Bhajan Lal**[1], the Supreme Court issued guidelines where extraordinary power under Article 226 or inherent powers under Section 482 C.P.C can be exercised, which read as under:

1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the first information report and other material, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate with the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with a mala fide and/or where the proceeding is maliciously

instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

Recently, the Supreme Court in **Ramesh Kumari v. State (NCT OF DELHI)**[2] held that when a complaint is made to the police officer, he is duty bound to register the case on receiving information disclosing cognizable offence. Genuineness or credibility of the information is not a condition precedent for registration of a case.

Whether transferring of vehicles by the petitioner in favour of the companies is lawful or not cannot be gone into in this writ petition, at this stage, since the allegations made in the complaint *prima facie* discloses an offence under Section 420 I.P.C.

In view of the same, the submission made by the learned Senior Counsel for the petitioner that under the Andha Pradesh Motor Vehicles Act such transfer of vehicles has not been prohibited, cannot be accepted since the same has to be investigated into by the police by registering the crime. If the petitioner is aggrieved by the charge sheet, if any, laid after completion of the investigation into the above crime, it is always open for him to question the same. But without filing of charge sheet, at the threshold of investigation, quashing of F.I.R does not arise. In view of the same, no *mandamus* as such can be issued.

The writ petition is accordingly dismissed. There shall be no order as to costs.

A. GOPAL REDDY, J

Date: 01.08.2007

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[1] 1992 SCC (Cri) 426

[2] (2006) 2 Supreme Court Cases 677